

840 CMR 10.00: STANDARD RULES FOR DISABILITY RETIREMENT

10.20: Essential Duties

In connection with all applications for disability retirement and evaluations, re-evaluations or re-examination of disability retirees in connection with restoration to active service or participation in a rehabilitation program, a determination of the essential duties of the relevant job or position shall be made. The determination of what constitutes an essential duty of a job or position is to be made by the employer, based on all relevant facts and circumstances and after consideration of a number of factors. The employer will identify and delineate the duties the employer deems to be essential to the job or position under consideration.

The term “essential duties” as used in M.G.L. c. 32 and in all regulations promulgated by the Commission shall mean those duties or functions of a job or position which must necessarily be performed by an employee to accomplish the principal object(s) of the job or position. The essential duties of a position are those which bear more than a marginal relationship to the position. In making the determination as to whether a function or duty is essential, the employer shall consider and provide documentation to include, but not be limited to:

- (a) The nature of the employer’s operation and the organizational structure of the employer;
- (b) Current written job descriptions;
- (c) Whether the employer requires all employees in a particular position to be prepared to perform a specific duty;
- (d) The number of employees available, if any, among whom the performance of the job function can be distributed;
- (e) The amount of time that employees spend performing the function;
- (f) Whether the function is so highly specialized that the person in the position was hired for his or her special ability to perform the function;
- (g) The consequences of not requiring the employee to perform the function;
- (h) The actual experience of those persons who hold and have held the position or similar position; and
- (i) Collective bargaining agreements.

If the State Human Resources Division has promulgated or promulgates a list or description of essential duties for a position that is consistent with those of the member’s position, the employer shall submit such list or description as the essential duties for the position in question.